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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

**SHERRY CHANG and JASMINE SHIMODA, on  
behalf of themselves and all others similarly situated,**

**Plaintiffs,**

**10 Civ. 8577 (TPG)**

**-against-**

**BD STANHOPE, LLC, ERIC GOODE, and SEAN  
MACPHERSON,**

**Defendants.**

**NOTICE OF MOTION FOR PRELIMINARY APPROVAL OF SETTLEMENT,  
CONDITIONAL CERTIFICATION OF THE SETTLEMENT CLASS, APPOINTMENT  
OF PLAINTIFFS' COUNSEL AS CLASS COUNSEL, AND APPROVAL OF  
PLAINTIFFS' PROPOSED NOTICE OF SETTLEMENT AND CLASS ACTION  
SETTLEMENT PROCEDURE**

For the reasons set forth in the Memorandum of Law in Support of Plaintiffs' Motion for Preliminary Approval of the Settlement, Conditional Certification of the Settlement Class, Appointment of Plaintiffs' Counsel as Class Counsel, and Approval of Plaintiffs' Proposed Notice of Settlement and Class Action Settlement Procedure ("Motion for Preliminary Approval") and in the Declaration of Brian Schaffer in Support of Plaintiffs' Motion for Preliminary Approval ("Schaffer Declaration"), Plaintiffs respectfully request that the Court enter an Order:

(1) granting preliminary approval of the Settlement Agreement and Release ("Settlement Agreement"), attached as Exhibit B to the Schaffer Declaration;

(2) conditionally certifying the following settlement class under Federal Rule of Civil Procedure 23(a) and (b)(3) for purposes of effectuating the settlement:

All tipped employees employed by BD Stanhope who worked at the venues known as Hiro Ballroom and Cabanas in the positions of server, cocktail server, bartender, barback and busser, between November 12, 2004 through March 31, 2012.

- (3) appointing Fitapelli & Schaffer, LLP as Class Counsel;
- (4) approving Plaintiffs' Notice of Proposed Settlement of Class Action Lawsuit and Fairness Hearing, attached as Exhibit C to the Schaffer Declaration, and directing its distribution;
- (5) approving Plaintiffs' proposed schedule for final settlement approval; and
- (6) granting such other, further, or different relief as the Court deems just and proper.

\* \* \*

Plaintiff has contemporaneously submitted a Proposed Order, attached hereto as **Exhibit A**, for the Court's convenience.

Dated: New York, New York  
July 12, 2012

Respectfully submitted,

/s/ Brian Schaffer

Brian S. Schaffer (BS 7548)

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*Attorneys for Plaintiffs and  
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